

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CASSANDRA DEVER,

Plaintiff,

v.

Case No. 2:21-cv-12257

District Judge Sean F. Cox

Magistrate Judge Kimberly G. Altman

JUAN M. AGUILAR FERNANDEZ,

Defendant.

**ORDER DENYING DEFENDANT'S MOTION REGARDING
DEPOSITION (ECF No. 24)**

I. Introduction

This is a consumer rights case. Plaintiff Cassandra Dever (Dever) sued defendants Champion Buick GMC, Inc. (Champion) and Juan M. Aguilar Fernandez (Fernandez) claiming violation of state and federal law stemming from allegations that defendants tampered with the odometer on a vehicle Dever purchased. *See* Amended Complaint, ECF No. 7. Dever has since dismissed her claims against Champion, *see* ECF No. 10, leaving Fernandez as the sole defendant. Fernandez is proceeding *pro se*. Pretrial proceedings have been referred to the undersigned. (ECF No. 14). Before the Court is Fernandez's

motion regarding a scheduled deposition. (ECF No. 24). For the reasons that follow, the motion will be DENIED WITHOUT PREJUDICE.

II. Discussion

Pro se motions are to be construed liberally. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972) (stating that the allegations of *pro se* litigants are held to less stringent standards than formal pleadings drafted by lawyers); *United States v. Jennings*, 83 F.3d 145, 148 (6th Cir. 1996) (noting that *pro se* motions must be construed liberally). However, the Court “ ‘should not have to guess at the nature of the claim [or defense] asserted.’ ” *Frengler v. Gen. Motors*, 482 F. App’x 975, 976-77 (6th Cir. 2012) (quoting *Wells v. Brown*, 891 F.2d 591, 594 (6th Cir. 1989)).

Here, Fernandez complains of a notice of deposition he received, but did not properly understand, on August 18, 2022. (ECF No. 24, PageID.120). Presumably the notice required his appearance in Michigan, as he requests that the deposition be relocated to Chicago or “set on a Zoom type format.” (*Id.*). He also requests that a translator be present for his deposition and objects to Dever’s document request, as he has already provided the documents in his possession to Dever. (*Id.*, PageID.121).

As Dever has not filed a motion to compel Fernandez’s deposition in accordance with the notice, the relief requested by Fernandez is not available

through the Court at this time. Should Dever file such a motion, Fernandez can provide these and other reasons that he should not be subject to the deposition along those terms. In the meantime, the parties are encouraged to communicate and find a setting for the deposition that meets the needs of both parties.

III. Conclusion

As explained above, the relief sought by Fernandez in his motion regarding the noticed deposition, (ECF No. 24), is unavailable to him at this time. Therefore, Fernandez's motion is DENIED WITHOUT PREJUDICE.

SO ORDERED.

Dated: November 15, 2022
Detroit, Michigan

s/Kimberly G. Altman
KIMBERLY G. ALTMAN
United States Magistrate Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on November 15, 2022.

s/Carolyn Ciesla
CAROLYN CIESLA
Case Manager